

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5747 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

KESHAV SMRUTI EDUCATION TRUST

Versus

STATE OF GUJARAT

Appearance:

MR J.V. BHAIKAVIA, Advocate, for Petitioner.

MISS HARSHA DEVANI, A.G.P. respondents No.1 & 2.

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 26/03/96

ORAL JUDGEMENT

The petitioner trust made an application for permission to start Secondary School at Vaijalpur, Ahmedabad. This application was rejected under the communication dated 15-12-1992. The petitioner preferred the Appeal before the State Government which was allowed by the order dated 14-7-1993 and the petitioner was allowed to start Secondary School with effect from June 1992.

2. It appears that the petitioner was asked to file an undertaking with affidavit that the petitioner will not ask for grant. The petitioner, accordingly, gave undertaking with affidavit to the same effect. The further say of the petitioner is that in the identical matters the Government has given permission to start Secondary School with grant. The grievance of the petitioner is that it is has been singled out as such this is a clear case of discrimination. The petitioner has produced the collective order giving permission to run secondary schools with grant as many as 60 cases.

3. Learned A.G.P. submits that the petitioner is not entitled to grant for the reason that said trust is running the school even without waiting for the permission and therefore the petitioner was asked to file an undertaking that they will not claim grant. Once the petitioner has given the undertaking, it cannot ask for grant.

4. Having considered the matter, the case of the petitioner cannot be discriminated from other cases simply for the reason that the petitioner has given the undertaking. It appears that at the time of giving the undertaking the petitioner was not aware of the fact that the grant has been given to other schools similarly situated. Be that as it may, it is desirable that the respondents should reconsider the petitioner's case keeping in view the fact that such grant has been given to other schools.

5. This Special Civil Application has been allowed and the respondents are directed to consider the petitioner's case afresh for the grant in light of the aforesaid observations.

6. Rule is made absolute with the aforesaid observations. There shall be no order as to cost.

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